



AFRICAN TAX
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FISCALE AFRICAINE

POLICY PAPER

THE FUTURE FOR TAX AND CUSTOMS

IN THE CONTEXT OF
THE AFRICAN CONTINENTAL FREE
TRADE AGREEMENT (AfCFTA)



A Joint Research Initiative of the African Tax Administration
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1. INTRODUCTION

Trading under the African Continental Free Trade Area (AfCFTA) officially began on 1 January 2021, marking the commencement of what is set to be the largest free trade area in the world measured by the number of countries participating.¹ The AfCFTA is a culmination of decades of regional integration efforts that began in the 1960s with the establishment of the Organization of African Unity (OAU). To this end, the Agreement establishing the AfCFTA commits to oversee the creation of a single market for goods and services facilitated by the free movement of persons, eliminate tariff and non-tariff barriers to trade and establish a continental customs union.²

By achieving these ambitious objectives, it is anticipated that the AfCFTA will not only boost trade and real income on the continent but will also have a significant impact on poverty reduction, radically change Africa's position in the global value chain and lead to the development of African based value chains.³ Indeed, the AfCFTA represents "a unique opportunity to promote inclusive growth and accelerate the achievement of the post-pandemic recovery, the 2030 Agenda for Sustainable Development and Agenda 2063 of the African Union".⁴

Tax and customs government departments are key stakeholders for the successful implementation

of trade agreements, as demonstrated by the experience under World Trade Organisation (WTO) Agreements and the European Union (EU). These departments are not only tasked with collection of revenue but are also key in the implementation of trade facilitation measures necessary to increase trade flows. It is important that AfCFTA member states understand the role of tax and customs departments in the implementation of the Agreement, the challenges faced by these departments and adopt international best practices.

Therefore, this policy paper considers the role and future of tax and customs departments in implementing the AfCFTA Agreement and is structured as follows: section 2 provides an overview of the AfCFTA and the current implementation status. Section 3 considers the role of tax and customs departments in the implementation of trade agreements pulling from the experience of implementing WTO Agreements and EU Agreements. Section 4 discusses the African context and future considerations for tax and customs departments. Section 5 discusses the best practices and lessons learned from the EU and the East African Community (EAC). Finally, section 6 gives policy recommendations for tax and customs departments.

1. World Bank, *The African Continental Free Trade Area: Economic and Distributional Effects*, Washington, DC: World Bank. doi:10.1596/078-1-4648-1559-1. License: Creative Commons Attribution CC BY 3.0 IGO, pg. 1. Accessed on 25 February 2022 at <https://openknowledge.worldbank.org/bitstream/handle/10986/34139/0/781464815591.pdf>

2. Article 3, AfCFTA Agreement

3. The World Bank estimates that the AfCFTA has the potential to lift 30 million people from extreme poverty and 68 million people from moderate poverty. Real income gains are estimated to increase by 7% by 2035; intra-African trade is also expected to see a boost with exports projected to increase by almost 29%. Ibid

4. UNCTAD, *Economic Development in Africa Report: Reaping the Potential Benefits of the African Continental Free Trade Area for Inclusive Growth*, UNCTAD, 2021, p.xii

2. OVERVIEW OF THE AfCFTA AND CURRENT STATUS OF IMPLEMENTATION

On 15th June 2015, during the Twenty-Fifth Ordinary Session of the Assembly of Heads of State and Government, the AU Assembly launched negotiations for the establishment of the Continental Free Trade Area.⁵ This was "aimed at integrating Africa's markets in line with the objectives and principles enunciated in the Abuja Treaty".⁶ These objectives were outlined in Agenda 2063 which committed to an increase in intra-African trade to 50 per cent by 2045 from less than 12 percent in 2013.⁷ The Agenda also called for fast-tracking of the establishment of the Continental Free Trade Area by 2017 and doubling of intra-African trade volumes by 2022.⁸ In that regard, by 2017, African Ministers of Trade (AMOT) had decided on the modalities for the liberalization of trade in goods and services including the target of 90% tariff liberalization.⁹ Following the conclusion of negotiations on the AfCFTA Agreement, the Protocol on Trade in Goods, the Protocol on Trade in Services and the Protocol on Rules and Procedures on the Settlement of Disputes; 44 State Parties signed the AfCFTA Agreement on 21 March 2018. By 2019, 54 States had signed the Agreement and, to date, 47 have ratified the agreement.¹⁰

It is estimated that the free trade area will bring vast economic benefits to the continent, with some studies finding that the AfCFTA will contribute to boosting the combined consumer

and business spending in Africa to over \$6.7 trillion by 2030.¹¹ The Agreement also has the potential to raise Africa's low productivity and promote higher investment, thereby helping increase income levels and reduce poverty.¹² World Bank estimates that by 2035 the AfCFTA could increase real income gains by 7 percent and boost African exports by \$560 billion (over 81 percent increase in intra-continental exports, and around 19 percent growth in exports to non-African countries).¹³ The greatest beneficiaries from the positive trade gains include Cameroon, Egypt, Ghana, Morocco and Tunisia, whose intra-AfCFTA exports to AfCFTA partners are expected to double or triple with respect to the baseline. In terms of sectors, manufacturing exports lead, followed by agriculture and lastly, services trade.¹⁴ Empirical studies find that the AfCFTA would increase overall income and welfare for the majority of African countries. Virtually all studies find relatively small gains from the elimination of import tariffs and significantly larger gains from reduction of non-tariff barriers (NTBs). The recognised regional economic communities (RECs)¹⁵ are intended to serve as building blocks of the AfCFTA. Therefore, the AfCFTA will build on and complement the trade that is already taking place under the RECs. The existing tariff structure under these RECs will continue to apply.¹⁶ However, where two countries are not in an established REC (for example South Africa and

Kenya), new tariffs will apply to trade between them, as appropriately negotiated in tariff lines and Rules of Origin.¹⁷

In the last two years there has been significant progress made in regards to implementation of the Agreement. First, states have adopted 42 provisional schedules of tariff concession (PSTCs) with only 8 state parties and non-state parties yet to submit their schedules.¹⁸ Rules of origin covering 88.3 per cent of tariff lines have been agreed on with additional work needed for the automotive and textiles sectors.¹⁹ Member states have also concluded negotiations of draft Protocols on Digital Trade and Women and Youth.²⁰ The AfCFTA Adjustment Fund, intended to offer support to member states as they implement the Agreement, has been officially launched and operationalized in March 2023.²¹ In addition, trade under the second phase of the

guided trade initiative has 29 interested state parties.²² This initiative was launched in October 2022 with 7 member states and led to collection of information on readiness and effectiveness of national legal and institutional systems; assisted private sector to participate in trade under the AfCFTA and take advantage of the preferential treatment, by providing information and support to private businesses ; and identified the work needed to improve the effectiveness of the AfCFTA.²³

Indeed, member states are keen to accelerate the implementation of the Agreement with the 2023 AU theme of the year being "Acceleration of the African Continental Free Trade Area Implementation." This renewed focus on the AfCFTA calls countries to ensure that relevant stakeholders are prepared to take on their role in implementation.

5. Preamble, AfCFTA Agreement

6. Ibid.

7. Agenda 2063: The Africa We Want (n 33)

8. Ibid.

9. DTI (2018), n.15, p.3

10. Report on the Implementation of the African Continental Free Trade Area (AfCFTA) to the Fifth (5th) Mid-year Coordination meeting of the African Union and the Regional Economic Communities, July 2023.

11. Maliszewska, M., & Ruta, M. (2020). *The African continental free trade area: Economic and distributional effects*. World Bank Group Washington, DC.

12. Abrego, M. L., Amado, M. A., Gursoy, T., Nicholls, G. P., & Perez-Saiz, H. (2019). *The African Continental Free Trade Agreement: Welfare Gains Estimates from a General Equilibrium Model*. International Monetary Fund.

13. Ibid.

14. Ibid.

15. The AU Recognizes 8 RECs: Arab Maghreb Union (UMA) Common Market for Eastern and Southern Africa (COMESA), Community of Sahel-Saharan States (CEN-SAD), East African Community (EAC), Economic Community of Central African States (ECCAS), Economic Community of West African States (ECOWAS), Intergovernmental Authority on Development (IGAD) and Southern African Development Community (SADC).

16. Tralac. (2020). AfCFTA Rules of Origin. <https://www.tralac.org/documents/resources/infographics/4329-afcfta-rules-of-origin-fact-sheet-may-2021/file.html>

17. Ibid.

18. Report on implementation of AfCFTA, n 11

19. Ibid.

20. Ibid.

21. Ibid.

22. Ibid.

23. Ibid. See also Bania C. E. (2023). What have we learned from the AfCFTA Guided Trade Initiative? Tralac Trade Brief No. IDRC23TB01/2023. Stellenbosch: Tralac.